

**Part C State Performance Plan (SPP) for 2005-2010****Overview of the State Performance Plan Development:**

See page of the State Performance Plan

**Monitoring Priority: Effective General Supervision Part C / General Supervision**

**Indicator 12: Percent of hearing requests that went to resolution sessions that were resolved through resolution session settlement agreements (applicable if Part B due process procedures are adopted).**

(20 U.S.C. 1416(a)(3)(B) and 1442)

**Measurement:**

Percent = 3.1(a) divided by (3.1) times 100.

**Overview of Issue/Description of System or Process:**

South Dakota has a system in place to track hearing requests, timelines and outcomes. As a new requirement of IDEA 2004, South Dakota's procedure addressing hearing requests will require the due process procedures to be revised to include resolution sessions. The South Dakota Department of Education will modify its current process for requesting hearings to include resolution sessions once the federal Part B regulation are finalized. The resolution sessions are required unless the parent and the Birth to 3 Connections program agree to waive the session and go to mediation.

A resolution session provides the Birth to 3 Connections program with an opportunity to resolve a parent's complaint without going through an impartial due process hearing.

Within 15 days of receiving notice of the parents' due process complaint, and prior to the opportunity for a due process hearing, the Birth to 3 Connections program must convene a meeting with the parents and the relevant member or members of the IFSP Team who have specific knowledge of the facts identified in the due process complaint that:

1. Includes a representative of the Birth to 3 Connections program who has decision-making authority on behalf of the Birth to 3 Connections program; and
2. May not include an attorney of the Birth to 3 Connections program unless the parent is accompanied by an attorney.

The purpose of the meeting is for the parents of the child to discuss their due process complaint, and the facts that form the basis of the due process complaint, so that the Birth to 3 Connections program has the opportunity to resolve the complaint.

The meeting described above need not be held if:

1. The parents and the Birth to 3 Connections program agree in writing to waive the meeting; or
2. The parents and the Birth to 3 Connections program agree to use the mediation process described in this document.

If the Birth to 3 Connections program has not resolved the due process complaint to the satisfaction of the parents within 30 days of the receipt of the due process complaint, the due process hearing must occur and all applicable timelines for a due process hearing shall commence.

Except where the parties have jointly agreed to waive the resolution process or to use mediation, the failure of a parent filing a due process complaint to participate in the resolution meeting will delay the timelines for the resolution process and due process hearing until the meeting is held.

If a resolution to the dispute is reached at the meeting described above, the parent and Birth to 3 Connections program must execute a legally binding agreement that is:

1. Signed by both the parent and a representative of the agency who has the authority to bind the Birth to 3 Connections program; and
2. Enforceable in any State court of competent jurisdiction or in a district court of the United States.

If the parent and Birth to 3 Connections program execute an agreement, either may void the agreement within 3 business days of the agreement's execution.

**Baseline Data for FFY 2004 (2004-2005):**

Baseline data will be gathered in 2005-2006 and will include the number of hearing requests resolved at resolution session, number of hearing requests not resolved at resolution but resolved at mediation, number of hearing requests not resolved at resolution with mediation waived. The state monitoring system will monitor to determine if the procedure is being followed and within the required timelines.

**Discussion of Baseline Data:**

<b>FFY</b>	<b>Measurable and Rigorous Target</b>
<b>2005</b> (2005-2006)	<b>Target to be set February 2007</b>
<b>2006</b> (2006-2007)	<b><i>75% of hearing request will be resolved through resolution session settlement agreement.</i></b>
<b>2007</b> (2007-2008)	<b><i>78% of hearing request will be resolved through resolution session settlement agreement.</i></b>
<b>2008</b> (2008-2009)	<b><i>80% of hearing request will be resolved through resolution session settlement agreement.</i></b>
<b>2009</b> (2009-2010)	<b><i>82% of hearing request will be resolved through resolution session settlement agreement.</i></b>
<b>2010</b> (2010-2011)	<b><i>84% of hearing request will be resolved through resolution session settlement agreement.</i></b>

**Improvement Activities/Timelines/Resources:**

**Activities, timelines and resources will be developed after 2007 targets have been set.**

**Improvement Activities/Timelines/Resources:**

<b><i>Activities</i></b>	<b><i>Resources</i></b>	<b><i>Timelines</i></b>
<i>South Dakota tracks resolution sessions to ensure timelines and procedures are followed.</i>	<ul style="list-style-type: none"> <li>• <i>State office</i></li> </ul>	<ul style="list-style-type: none"> <li>• <i>July 1, 2005 – June 30, 2011</i></li> </ul>
<i>Training for state office, service coordinators, schools contacts on resolution session.</i>	<ul style="list-style-type: none"> <li>• <i>Consortium for Appropriate Dispute Resolution in Special Education (CADRE)</i></li> <li>• <i>Parent Connections</i></li> </ul>	<ul style="list-style-type: none"> <li>• <i>Scheduled for September 2006 (and on going to June 30, 2011)</i></li> <li>• <i>Scheduled for Fall Service Coordinator Training</i></li> </ul>
<i>Revise Part C Parent Right information,</i>	<ul style="list-style-type: none"> <li>• <i>MPRRRC staff</i></li> <li>• <i>Consultant</i></li> <li>• <i>State Staff</i></li> </ul>	<ul style="list-style-type: none"> <li>• <i>Completed (but will be revising depending on the Part C regulations)</i></li> </ul>